

United States Government

NATIONAL LABOR RELATIONS BOARD

Region 9

3003 John Weld Peck Federal Building

550 Main Street

Cincinnati, Ohio 45202-3271

Telephone: (513) 684-3686

Facsimile: (513) 684-3946

February 7
2006

Mr. James Buddendeck
1204 Waving Willow Drive
Dayton, Ohio 45409

Re: STROMAG, INCORPORATED
Case 9-RD-2098

Dear Mr. Buddendeck:

Your petition seeking an election among certain employees of Stromag, Incorporated has been carefully investigated and considered.

Decision to dismiss: Based on that investigation, I have concluded that further proceedings are not warranted and I am dismissing your petition for the following reasons:

Your petition was filed on February 2, 2006, and seeks to decertify the Union, Local Lodge 225 and District 34, International Association of Machinists and Aerospace Workers, AFL-CIO, as the bargaining representative of the Employer's production and maintenance employees and janitors. I conclude that your petition may not be processed because it is not timely filed.

Generally, a petition to decertify a union to be timely must be filed either during the "window period" of the current contract or after the contract has expired. In industries other than the healthcare industry, the window period for a contract whose duration is 3 years or less is the period between 90 days and 60 days prior to the expiration date of the contract. This rule, however, is superseded by Section 9(c)(3) of the National Labor Relations Act which prohibits the holding of an election in any bargaining unit or subdivision thereof in which a valid election was held during the preceding 12-months period. Although Section 9(c)(3) does not preclude the processing of a petition filed before the end of the 12-month statutory period provided the election is not held within the prohibited time, petitions filed more than 60 days before the end of the statutory period will be dismissed. *Vickers, Inc.*, 124 NLRB 1051 (1959).

The Employer and the Union in this matter are parties to a contract covering unit employees which is effective by its terms from May 1, 2005 through April 30, 2006. Our records, however, disclose that a valid election was held on June 13, 2005 in Case 9-RD-2078 involving the same bargaining unit. Although your petition was filed within the window period of the contract, it was filed more than 60 days before end of the 12-month period following the

valid election in Case 9-RD-2078. Since this 60-day period will not begin until after the end of the window period, no petition may be filed until after the expiration of the applicable contract.

Your Right to Obtain a Review of Dismissal Action: Pursuant to the National Labor Relations Board's Rules and Regulations, any party may obtain a review of this action by filing a request for review with the National Labor Relations Board, 1099 14th Street, NW, Washington, DC 20570. If you file a request for review, you must also send a copy to the other parties to this proceeding and to me.

Request for Review Due Date: The request for review must be received by the Executive Secretary for the Board by the close of business at 5:00 p.m. EST on **February 21, 2006**. However, if you mail the request for review, it will be considered timely if it is postmarked no later than the day before the due date.

Extension of Time to File Request for Review: Upon good cause, the Board may grant special permission for a longer period within which to file a request for review. If you file a request for extension of time with the Executive Secretary in Washington, you must send a copy of your request to the other parties to this proceeding and to me.

Request for Review Contents: The request for review must contain a complete statement setting forth the facts and the reasons that support your request for review of the decision to dismiss the petition. The request for review and any request for extension of time must include a statement that a copy has been served on the other parties to this proceeding and on me and that service has been accomplished in the same or faster manner as that used to serve the Board.

Sincerely,

/s/ Gary W. Muffley

Gary W. Muffley
Regional Director

GWM/dml

cc: Stromag, Incorporated - Attn: Ms. Sharol Albrecht - 85 West Park Road
Centerville, Ohio 45459

Mr. Karl R. Ulrich - Attorney at Law - Sebaly, Shillito & Dyer
1900 Kettering Tower - Dayton, Ohio 45423

Local Lodge 225 and District 34, International Association of Machinists and Aerospace Workers - 60 Commerce Park Drive - Dayton, Ohio 45404

Mr. David L. Porter - Grand Lodge Representative - International Association of Machinists & Aerospace Workers, AFL-CIO - Executive Plaza III - 135 Merchant Street, Suite 265 - Cincinnati, Ohio 45246-3730